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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/803,645	03/09/2001	Sanjay Kumar	05 -NF92/2001	6673

7590

03/01/2004

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EXAMINER
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QUAN, ELIZABETH S

ART UNIT	PAPER NUMBER
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1743

DATE MAILED: 03/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/803,645

Applicant(s)

KUMAR ET AL.

Examiner

Elizabeth Quan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,3,4,6-12,15-18,21,22,24,25,28-34,37,38,40 and 41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,6-12,15-18,21,22,24,25,28-34,37,38,40 and 41 is/are rejected.
- 7) ☒ Claim(s) 21,22,24,25 and 28-33 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12/5/2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. New corrected drawings are required in this application because the details of the invention are difficult to see and many details are not shown in a comprehensible manner. The drawings are dark. For instance, FIG. 6 is apparently a cross-sectional view of the device. However, no other figures provide enough detail for FIG. 6 to be a cross-section of. The figures are confusing and provide very little understanding of the invention. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the sidewall in the form of a tube must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

3. Claims 21, 22, 24, 25, 28-33 are objected to because of the following informalities: They depend on canceled claims. Appropriate correction is required.

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4. The claims are objected to because the lines are crowded too closely together, making reading and entry of amendments difficult. Substitute claims with lines one and one-half or double spaced on good quality paper are required. See 37 CFR 1.52(b).

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 1, 3, 4, 6-12, 15-18, 21, 22, 24, 25, 28-34, 37, 38, 40, 41 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification, drawings, and original claims do not provide support for the following newly added limitations: sidewall in the form of a tube. Furthermore, the specification does not explain the claimed invention. The specification merely repeats the claims, and the drawings do not show the details of the claimed invention in a comprehensible manner. For example, it is unclear how the sidewall is in the form of a tube. It is also unclear how the retaining rim is fastened to the base plate. In the specification under EXAMPLE 1, it is disclosed that the retaining rim (6) of the device is attached to the base plate using nuts and bolts (7). Additionally, EXAMPLE 1 discloses that holes (8) are drilled on the outer edge of the base plate (1) and the retaining rim (6) for fastening nuts and bolts. However, FIG. 6 shows the base plate fastened to the horizontal plate by nuts and bolts (7) through holes in the base plate and horizontal plate with the retaining rim leaning

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against the horizontal plate not the retaining rim fastened to the base plate by nuts and bolts (7).

How does the retaining rim stay put on the base plate? None of the other figures show how the retaining rim is fastened to the base plate. Furthermore, EXAMPLE 4 of the specification simply states that the horizontal plate sits on the base plate, such that it appears there is no fastening between the horizontal plate and base plate. The method to use the device in EXAMPLE 6 does not even mention the horizontal plate, but steps (xii) and (xiii) discuss the placing the retaining rim onto the base plate, and fastening the retaining rim with the help of nuts and bolts. It is unclear how the retaining rim can have a sidewall. Perhaps, the retaining rim is in the form of a sidewall.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

8. Claims 1, 3, 4, 6-12, 15-18, 21, 22, 24, 25, 28-34, 37, 38, 40, 41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

9. Claim 1 is rendered indefinite since it is unclear how the sidewall is in the form of a tube. It is also unclear how the retaining rim is fastened to the base plate. In the specification under EXAMPLE 1, it is disclosed that the retaining rim (6) of the device is attached to the base plate using nuts and bolts (7). Additionally, EXAMPLE 1 discloses that holes (8) are drilled on the outer edge of the base plate (1) and the retaining rim (6) for fastening nuts and bolts. However, FIG. 6 shows the base plate fastened to the horizontal plate by nuts and bolts (7) through holes in the base plate and horizontal plate with the retaining rim leaning against the horizontal plate not the retaining rim fastened to the base plate by nuts and bolts (7). How does the retaining rim stay

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put on the base plate? None of the other figures show how the retaining rim is fastened to the base plate. Furthermore, EXAMPLE 4 of the specification simply states that the horizontal plate sits on the base plate, such that it appears there is no fastening between the horizontal plate and base plate. The method to use the device in EXAMPLE 6 of the specification does not even mention the horizontal plate, but steps (xii) and (xiii) discuss the placing the retaining rim onto the base plate, and fastening the retaining rim with the help of nuts and bolts. It is unclear how the retaining rim can have a sidewall. Perhaps, the retaining rim is in the form of a sidewall.

***Response to Arguments***

10. Applicant's arguments filed 12/5/2003 have been fully considered but they are not persuasive.

11. The changes to the drawings raise new questions. Previously, the retaining rim was fastened to the horizontal plate by nuts and bolts passing through the holes of the retaining rim and horizontal plate. Now the base plate is fastened to the horizontal plate by nuts and bolts passing through the holes of the base plate and horizontal plate. But the specification indicates that holes are drilled in the retaining rim and base plate. It is unclear how the structural elements relate with each other to form a complete invention.

12. Examiner notified Applicant submitted a Utility Patent Application Transmittal with Rajesh Thakur as the listed first inventor in the immediate application. The Declaration for Patent Application and Power of Attorney in the immediate application lists only Sanjay Kumar and Dhiraj Vyas as the original, first, and joint inventors. WO 02/071049 to Rajesh Thakur, Anil Sood, and Paramvir Singh Ahuja discloses an invention identical to that of the immediate specification with the same specification, drawings, and claims with the exception of minor

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grammatical changes to claims 7-10 as presented on the amended sheet. Note that none of the inventors of WO 02/071049 are the same as the immediate application. Also note that the immediate application was filed on 3/9/2001, and the WO 02/071049 was filed two days before the immediate application on 3/7/2001. (see previous Office Action).

13. In response, Applicant has submitted a request to the International Bureau for the correction of inventorship of WO 02/071049 to delete the extra inventor Rajesh Thakur, which also appears as the first named inventor on a Utility Patent Application Transmittal in this application. The request letter to the International Bureau is not persuasive. The inventorship of the WO 02/071049 must be officially corrected. Furthermore, this application was filed two days after WO 02/071049.

14. Applicant argues that the Examiner has cited Patents listed in NOTICE OF REFERENCES CITED as B-L and O and the lack of application of these references and others like them within the classes or subclasses searched the Examiner apparently recognizes the clear patentability of the present invention over any of these references. Examiner states that these references may have been cited as either potential 102 or 103 references for the Applicant to consider in amending claims since there may be multiple 102 or 103 rejections to be made by different prior art. Citing references is in no way indicative of the patentability of the claimed invention.

### ***Conclusion***

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth Quan whose telephone number is (571) 272-1261. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571) 272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Art Unit 1743

  
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